S.B. CIVIL MISC. APPEAL NO. 873/2006
(Smt. Jagu & ors. Vs. Ramjani & others)

DATED :03.10.2006.

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr.Mahendra Trivedi for the appellants.

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By way of this appeal the claimant-appellants seek to challenge the award dated 28.02.2006 made by the Motor Accident Claims Tribunal, Banswara in Claim Case No. 286/2004; and seek enhancement over the amount of Rs.3,07,600/- awarded by the Tribunal as compensation on account of accidental death of Teeta Damor (about 25 years), husband of appellant No.1, father of appellant No.2 and son of appellants Nos. 3 & 4.

On 15.06.2004, the victim Teeta Damor while traveling in a truck bearing registration No. GJ17 X 5727 sustained injuries on the truck capsizing and died while undergoing treatment. The present appellants claimed compensation for the loss thus suffered by them with the averments that the deceased was traveling in the truck as a labourer being employed with its owner; was about 25 years in age and was earning Rs. 3,000/- per month from labour and another Rs. 2,000/- per month from agriculture.

The Tribunal found the accident to have occurred for rash and negligent driving of the aforesaid truck and held the insurer liable with the finding that the deceased was traveling in the truck in question in his capacity as a labourer and the insurer has taken premium for covering such risk. While taking up quantification of compensation, the Tribunal found that there was no proof available on record towards agriculture income of the deceased nor there was any definite evidence regarding his income as labourer though his wife stated such income at Rs. 3,000/- per month. In the circumstances, the Tribunal took his income at Rs.2,100/- per month and contribution to the claimants at Rs. 1,600/- per month. Looking to the age of the deceased of about 25 years the Tribunal applied a multiplier of 17 to the multiplicand of Rs. 16,800/- per annum and thereby calculated pecuniary loss at Rs.2,85,600/-. The Tribunal has proceeded to award Rs. 20,000/- towards non-pecuniary loss and has also awarded Rs.2,000/- towards funeral expenses and has, therefore, made an award in the sum of Rs. 3,07,600/- in favour of the claimants and allowed them interest @ 6% per annum from the date of filing of the claim application.

Learned counsel appearing for the appellants has contended that looking to the age and income of the deceased

and his future prospects, the amount awarded by the Tribunal remains too low and deserves suitable enhancement.

Having examined the record and the award in its totality this Court is satisfied that this appeal remains bereft of substance and deserves to be dismissed.

The deceased was about 25 years of age and when no definite proof of income of the deceased has been produced and the deceased has not been shown in any settled job or employment the Tribunal was to take a reasonable figure towards loss of contribution for the claimants. The Tribunal has put the estimate on the income of the deceased at Rs.2,100/-per month and thereby the loss of contribution for the claimants at Rs. 1,600/- per month leading to a multiplicand of Rs. 16,800/- per annum that cannot be said to be inadequate. It is noticed that the claimants alleged that the deceased was engaged by the truck owner, non-applicant No. 1 as a labourer at Rs. 3,000/- per month. However, the truck owner has replied the averments as taken in paragraph 6 of the claim application regarding monthly income of the deceased as ‘not applicable’. Further, the averments regarding income of the deceased and resultant loss of the claimants as made in paragraph 24 of the claim application have been

denied by the truck owner and it has been averred in the reply that the claim for compensation as stated by the claimants was highly exaggerated. Therefore, when the alleged employer did not admit the assertion of income of the deceased, it was required of the claimants to have proved the income by cogent evidence. The claimants having failed to do so the Tribunal cannot be said to have erred in putting a reasonable estimate on the basis of average wages of a labourer.

The Tribunal has applied the multiplier of 17 that too cannot be said to be inappropriate and is rather on the higher side. Non-pecuniary loss has of course been awarded a bit on the lower side but in view of the higher amount allowed for pecuniary loss, the ultimate award made by the Tribunal cannot be said to be too low or grossly inadequate so as to warrant interference by the appellate court. In the totality of circumstances, the rate of interest at 6% per annum in the award made in the year 2006 cannot be said to be abnormally low or inappropriate.

The upshot of the discussion aforesaid is that the amount awarded by the Tribunal remains not lesser than a just compensation in this case and there is no scope for upward revision.

In this view of the matter, there appears no reasonable ground to admit this appeal and the same is, therefore, dismissed summarily.

[DINESH MAHESHWARI], J.

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